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इस भाग में मिला बूझ संज्ञा की जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (सब राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 19 फरवरी, 1998

Commission of India hereby publishes the Judgement dated
21-8-1997 of the High Court of Gujarat at Ahmedabad in
Election Petition No. 6 of 1996.

आ. प्र. 18—भारत निर्वाचन आयोग एतद्वारा 1996
की निर्वाचन अधीन सं. 6 अहमदाबाद स्थित गुजरात उच्च
न्यायालय के तारीख 21-8-1997 के निर्णय को लोक प्रति-
निधित्व अधिनियम, 1951 (1951 का 43) की धारा
106 के अनुसरण में प्रकाशित करता है।

[निर्णय अंग्रेजी अनुवाद में छपा है]

[सं. 82/रा.स.गुज./6(96)98]

आदेश से,

के. आर. प्रसाद, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 19th February, 1998

O.N. 18.—In pursuance of Section 106 of the Represen-
tation of the People Act, 1951 (43 of 1951), the Election

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ELECTION PETITION No. 6 of 1996

For Approval and Signature :

Hon'ble Mr. Justice J. N. Bhatt :

1. Whether Reporters of Local Papers may be allowed to see the judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the judgement? Yes
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? Yes

5. Whether it is to be circulated to the Civil Judge? No

KESHUBHAI MERUBHAI MAADAM

Versus

THE RETURNING OFFICER

APPEARANCE :

Mr. Jayant Patel for Petitioner.

CORAM : MR. JUSTICE J. N. BHATT

Date of decision : 21-08-97

ORAL JUDGEMENT

In case and in reality, the question of interpretation and applicability of provisions of Articles 80(4) and 84 of the Constitution of India and provisions of Sections 30, 33, 36, 39 and 80 to 84 of the Representation of People Act, 1951 (43 of 1951) ("R. P. Act") has been placed in focus in this election petition under Section 80A of the R. P. Act while challenging the election of the returned candidate, respondent No. 2 Dr. Yoginderkumar Alagh (now Union Minister) in the bye election to the Council of States held in November 1996. The petitioner has also questioned the order of the returning officer, respondent No. 1, dated 21-11-1996, whereby, two nomination papers of the petitioner came to be rejected on the ground that nomination papers had not been proposed by an elector of Gujarat Legislative Assembly Constituency as required under Section 32(2) of the R. P. Act. The contention of the petitioner is that the expression "the representative of each State" in the council of States means representative of any local authority in that particular State. It is, therefore, the contention of the petitioner that a person who is qualified to be elected in the council of States must be a representative of any local authority in that State. Respondent No. 2 Dr. Alagh was not the representative of the local authority; whereas, the petitioner was an elected member of the local authority. Therefore, a grievance is raised that rejection of nomination papers of the petitioner and acceptance of the nomination papers of respondent No. 2 Dr. Alagh by respondent No. 1 is illegal and unconstitutional.

A resume of relevant and material factual aspects may be articulated at the outset. The petitioner was voter in 26, Jamnagar (Rural) (Scheduled Caste) Legislative Assembly Constituency and his name stood at serial No. 76 in the voters' list of Navagam (Ghed) which is forming part of 26, Jamnagar Legislative Assembly Constituency and the petitioner was elected as a member councillor in the said municipal borough which is a local authority duly constituted under the provisions of the Gujarat Municipalities Act, 1963. It was, therefore, the case of the petitioner that he was a representative of the local authority in Gujarat State and qualified to contest the bye election to the council of States held in November 1996; whereas, respondent No. 2 Dr. Alagh was not duly elected representative of any local authority in the Gujarat State and he was merely a voter in the Baroda Constituency of Vadodara in the Gujarat State and, therefore, he was not qualified under Article 80(4) of the Constitution of India.

Notification for election of members in Council of State of Gujarat Legislative Assembly (bye election) was published and respondent No. 1 was the returning officer at the said election to the Council of States as per the election programme. The petitioner had submitted two nomination papers for the said bye election under Section 32 of the R. P. Act. One of the nomination papers of the petitioner was proposed by one Jay Madaam, who was a voter in the same legislative assembly constituency in which the petitioner was also a voter; whereas, the second nomination paper was proposed by one Nitin Madaam who was also a voter in the same constituency.

Respondent No. 1 returning officer by passing an order on 21-11-1996, upon scrutiny of nomination papers for the bye election to the Council of States, rejected the nomination papers of the petitioner on the ground that it was not proposed by any elector of Gujarat Legislative Assembly Constituency as required under Section 32(2) of the R. P. Act.

The nomination papers (three in all) of only respondent No. 2 Dr. Alagh were found properly filled in upon scrutiny and, therefore, the returning officer accepted the same. Respondent No. 2 was declared elected by respondent No. 1.

In the backdrop and factual matrix as aforesaid, the petitioner by filing this election petition, has challenged the election of respondent No. 2 Dr. Alagh to the council of State and has sought a declaration that he should be declared as elected candidate for the said bye election of council of States held in November 1996.

At the admission stage, the matter was heard at length and after hearing the learned advocate appearing for the petitioner and considering the catalogue of circumstances and upon examination of the relevant Constitutional and Statutory provisions, it was noticed that this petition is incompetent and not maintainable at the instance of the petitioner for the reasons which are elaborately articulated and enumerated hereinafter.

The impugned order of respondent No. 1 returning officer was passed exercising his powers under Section 36(2)(b) of the R. P. Act, on 21-11-1996. As the nomination papers submitted by the petitioner had not been proposed by any elector of the Gujarat Legislative Assembly Constituency as required under the provisions of the R. P. Act, both the nomination papers of the petitioner came to be rejected; Whereas, three nomination papers of respondent No. 2 Dr. Alagh were found legal and valid and therefore, they were accepted. At the time of scrutiny of nomination papers for the bye election to the council of States the petitioner, his election agent, Nitin Madaam, one proposer Jay Madaam and authorised person one Sureshbhai Patel, were present. In presence of the parties, upon scrutiny of nomination papers, the impugned order came to be passed. It is an admitted act that the petitioner was not a candidate set up by any recognised political party and his both nomination papers were signed by the candidate and by one proposer Jay Madaam only both the nomination papers of the petitioner were not having 10 proposers as per the statutory requirement.

With a view to appreciating the challenge to the election of the returned candidate respondent No. 1 and the prayer for declaration that the petitioner is duly elected candidate for the bye election to the council of States held in November 1996, in light of the aforesaid facts, relevant and material constitutional and statutory provisions are required to be examined and appreciated, and also the whole scheme of Election, Mechanism.

Chapter II of the Constitution of India provides for constitution and business of Parliament. Article 79 in the said chapter provides that there shall be a Parliament for the Union consisting of President and two Houses to be known respectively as Council of States and House of People, popularly, known as Upper House and Lower House of Rajya Sabha and Lok Sabha. Article 80 provides for constitution of council of states. Clause (4) of Article 80 is relevant and material for our purpose. It provides that representative of each State in the council of State shall be elected by elected members of Legislative Assembly of the State in accordance with system of proportionate representation by means of single transferable vote. The expression 'the representative of each State employed in clause (4) of Article 80 is required to be interpreted. According to the contention of the petitioner, the aforesaid expression means elected representative of any local authority in that particular area of the State. It would, therefore, be appropriate to refer to the provisions of Article 80 which read as under :

"80. Composition of the Council of States (1) The Council of States shall consist of :—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3) ; and

(b) not more than two hundred and thirty eight representatives of the State and of the Union territories ;

(2) The allocation of seats in the Council of States to be filled by representatives of the States and of the union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

- (3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :—

Literature, science, art and social service.

- (4) The representatives of each State in the Council of States shall be elected by the elected member of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.
- (5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

Article 81 of the Constitution is not relevant for the present purpose as it relates to composition of House of People; whereas, we are concerned with bye-election to the Council of States held in November 1996. The relevant Article is 84 which prescribes qualifications for membership of Parliament. It reads as under :

"84. Qualification for membership of Parliament person shall not be qualified to be chosen to fill a seat in Parliament unless he :—

- (a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) is, in the case of a seat in the Council of States not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament" (emphasis supplied).

It could very well be visualised from the aforesaid provisions of Article 84 that one of the qualifications prescribed for membership of Parliament is that he should be possessing such other qualifications as may be laid down by the Parliament. The provisions of the R. P. Act which relate to qualifications are, therefore, relevant and material at this juncture. The underlying purport and design of Article 84 is obvious to prescribe qualification for a person who wants to be a competent candidate at the election. Generally, a person who is a voter would become entitled to stand as a candidate for election; whereas, under Article 84, it is provided that while one being a voter which is essential qualification of a candidate, a voter who wishes to be a candidate must also satisfy some additional qualifications as laid down by the Parliament.

It is in this context that relevant provisions of R. P. Act warrant to be examined. Part V of the R. P. Act provides for conduct of election. Chapter I in part V relates to nomination of candidate. Section 30 provides for appointment of dates for nomination and consequential process. Section 31 provides public notice of election. The relevant provision is made in Section 32. It provides for election who can be nominated as a candidate for important provisions relating to nominations of candidate for election as provided in Section 32. Any person may be nominated as candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Constitution and under the provisions of the R. P. Act.

Section 33 of the R. P. Act prescribes process of presentation of nomination paper and also provides requirement of valid nomination. This provision is very important as while rejecting nomination papers of the petitioner, the returning officer has exercised his powers under Section 36 read with Section 33. It would, therefore, be necessary to have a close look to the said provisions of Section 33. Section 33 reads as under :

- "33. (1) On or before the date appointed under clause (a) of Section 30 each Candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the returning officer at the place and specified in this behalf in the notice issued under Section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer :

Provided that a candidate not set up by a recognised political party, shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency :

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday :

Provided also that in the case of a local authorities' constituency, graduates' constituency or teachers' constituency, the reference to 'an elector of the constituency as proposer' shall be construed as a reference to ten per cent of the electors of the constituency or ten such electors, whichever is less, as proposers.

- (1A) Notwithstanding anything contained in sub-section (1), for election to the Legislative Assembly of Sikkim (deemed to be Legislative Assembly of that State duly constituted under the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed :

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and

- (a) in the case of a seat reserved for Sikkimese of Bhutia Lepcha origin, also by at least twenty electors of the constituency as proposers and twenty electors of the constituency as seconders;
- (b) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;
- (c) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer :

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.

- (2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is member and the area in relation to which that caste or tribe is a Scheduled caste or, as the case may be, a Scheduled tribe of the State.
- (3) Where the candidate is a person who having held any office referred to in Section 2, has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.
- (4) On the presentation of nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls;

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any

place, mentioned in the electoral roll or the nomination paper and to clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(5) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

(6) Nothing in this section shall prevent any candidate from nominated by more than one nomination paper :

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.

(7) Notwithstanding anything contained in sub-section (6) or in any other provision of this Act, a person shall not be nominated as a candidate for election—

(a) in the case of a general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies ;

(b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in that State ;

(c) in the case of a biennial election to the Legislative Council of a State having such council from more than two council constituencies in the State ;

(d) in the case of biennial election to the council of States for filling two or more seats allotted to a State, for filling more than two such seats ;

(e) in the case of bye elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies ;

(f) in the case of bye-elections to the Legislative Assembly of State from two or more assembly constituencies which are held simultaneously, from more than two such Assembly constituencies ;

(g) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State which are held simultaneously, for filling more than two such seats ;

(h) in the case of bye-election to the Legislative Council of a State having such council from two or more council constituencies which are held simultaneously, from more than two such council constituencies.

Explanation—For the purposes of this sub-section, two or more bye-election shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under Sections 147, 149,

150 or as the case may be, 151 on the same date."

Section 33 provides statutory requirement for valid nomination and proper procedure for presentation of nomination paper and power to scrutinise the nomination paper to the returning officer and right to reject and accept nomination paper by the returning officer. Sub-section (1) of Section 33 read with provisions of Article 84 of the Constitution clearly go to show that nomination paper is required to be filled in the prescribed form and signed by the candidate and by an elector of the constituency as proposer and in case of a candidate who is not set up by a recognised political party shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by 10 proposers being electors of the constituency. Admittedly, the petitioner was not a candidate set up by a recognised political party to the bye-election of council of States held in November 1996 from Gujarat State. Therefore, the nomination paper of the petitioner was required to be sponsored or subscribed by ten proposers who are electors of the said constituency. It is an admitted fact that nomination papers presented by the petitioners were not subscribed by ten proposers being elector of the said constituency. Both the nomination papers were subscribed only by one proposer one Jay Madam who was elector or voter in the same constituency. Requirements of provisions of Section 33 (1) in relation to requirement of nomination paper being subscribed by ten proposers who are electors of the constituency is mandatory. Non-compliance or proviso to sub-section (1) of Section 33, therefore, would entail rejection of nomination paper in absence of the compliance thereof the defect, therefore, was fundamental and of mandatory provision. When the mandatory obligation is cast under the statute made by the Parliament pursuant to requirement of clause (c) of Article 84, the defect or deficiency or non-compliance of the mandatory provisions should invite rejection of nomination paper. The proviso incorporated in sub-section (1) of Section 33 is mandatory and is provided by the Parliament in view of constitutional power under Article 84 (c) of the Constitution. The nomination paper in violation of complete compliance of the said proviso to sub-section (1) of Section 33 would render nomination paper invalid and illegal. Therefore, the contention raised by the learned advocate for the petitioner that nomination papers of the petitioner were improperly and illegally rejected by respondent No. 1 returning officer is, in the opinion of this court, without any substance and merit.

Section 36 prescribes scheme for scrutinising of nomination paper and powers to the returning officer to accept or reject the nomination paper. No doubt, the returning officer should not reject any nomination paper on the ground of any defect which is not of substantial character, as provided in sub-section (4) of Section 36. But non-compliance of provisions of proviso attached to sub-section (1) of Section 33 obviously would not fall within the ambit of provisions of Section 36 (4). On the contrary, sub-section (2) of Section 36 gives ample power to the returning officer to hold summary inquiry when he finds it necessary, after examination of the nomination paper and objections which may be raised to any nomination or on his own motion and reject the nomination paper on any one of the grounds enumerated in clauses (a), (b) and (c) of sub-section (2) of Section 36.

Respondent No. 1 returning officer has rejected both the nomination papers of the petitioner invoking aids of provisions of clause (b). It could, therefore, very well be seen from the aforesaid provisions of clause (b) of sub-section (2) of Section 36 that the returning officer is empowered to reject nomination paper if there has been failure to comply with any of the provisions of Section 33 or Section 34 of the R.P. Act. As noticed earlier, provisions of Section 33 (1) proviso (i) makes it obligatory that a candidate would not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency. There is defect deficiency and non-compliance of the first proviso to sub-section (1) of Section 33 which is not disputed as such. In view of the aforesaid facts and circumstances, rejection of two nomination papers of the petitioner and acceptance of nomination paper of respondent No. 2 Dr. Alagh in light of the impugned order recorded by respondent No. 1 on 21-11-1996 was justified.

Provisions are incorporated in Chapter II in relation to disputes regarding elections, Section 80 provides that no election shall be called in question except by election petition filed in accordance with provisions of Chapter II of the R. P. Act. Section 80A provides that jurisdiction for trial of election petitions shall be with the High Court and such jurisdiction shall be exercised ordinarily by a Single Judge of the High Court. The provision by itself shows that election petition itself be tried by the competent court and the court would be High court and thus High court while trying the election petition retains its status and its functioning is regulated by provisions of the R. P. Act qua the trial of election petition. Apart from inherent powers of the court, this court even while working as election forum; under Article 215 of the Constitution of India is court of Record and is repository of all the powers which are of multi dimensions and as such every power is inherent in the High court.

Section 81 provides presentation of petitions. Section 82 make provision as to who shall be party to the petition. What shall be contents of petition are prescribed in Section 83. What relies can be claimed by the petitioner in election petition has been provided in Section 84. Various procedures of trial of election petition have been prescribed in Chapter III of Part VI of the R. P. Act. Section 86 empowers the High Court to dismiss the election petition which does not comply with provisions of Section 81 or 82 or 117 of the R. P. Act. An order of the High Court dismissing the election petition under this section shall be deemed to be an order made under clause (a) of Section 98.

The grievance of the writ petitioner that his nomination papers were improperly rejected is totally meritless. Interpretation of the expression "representative of State" sought to be made by the petitioner in the petition and canvassed before this court by the learned advocate for the petitioner is also, totally, meritless and unsustainable. Interpretation sought to be made in this behalf is running diametrically opposite to the explicit unambiguous, constitutional provisions and statutory mandatory provisions.

The contention that defect in the nomination paper being not sponsored by ten proposers being electors of the same constituency is not mandatory and is not a defect of substantial character requiring straightway rejection thereof being also unsustainable and therefore being meritless. The view which this court has taken in also very much reinforced by the decision of the Honourable apex court in *Harjit Singh vs. S. Umrao Singh*, AIR 1980 S.C. 701. This petition is required to be dismissed at the threshold in view of the fact that the petitioner is not competent to maintain it. It cannot be contended that petition cannot be dismissed at the outset without observing provisions of rule 285 of the Gujarat High court Rules 1993 492 GI/98—2

("the Rules"), for the simple reason that though the petitioner was qualified to be a candidate to the bye election to the council of States held in November, 1996, he cannot be said to be validly or duly nominated candidate in view of the provisions of the first proviso to Section 33 (1) of the R.P. Act. It may be recalled that a candidate not set up by a recognised political party would not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of that constituency. In the present case, it is an admitted fact that nomination papers of the petitioner were only sponsored by one proposer and they were not supported by ten proposers as required under proviso to Sub-Section (1) of Section 33. It is in this context that there was no valid nomination for election and election petition cannot be maintained by the petitioner in view of provisions of Section 81 of the R.P. Act. Section 81 provides for requirements and conditions for presentation of valid election petition. Non-compliance of mandatory provisions empowers the High court to dismiss the election petition 'in-limine' not only under Section 86 of the R.P. Act but also under general powers of the court. Section 86 provides that High Court shall dismiss the election petition which does not comply with provisions of Section 81 or 82 or 117. Non-compliance of provisions of Section 81 is sufficient to dismiss the election petition. Therefore, it cannot be contended that election petition cannot be rejected 'in limine' without hearing other side in view of provisions of Rules 285 of the Gujarat High Court Rules. Interpretation which is sought to be made placing reliance on Rule 285 cannot be accepted. Therefore, the contention that election petition can be dismissed after observing the procedure prescribed under Rule 285 is, totally, meritless.

Merely because a candidate is qualified under Article 80 of the Constitution, it does not mean that he is exempt from compliance of requirements of law which may be made by the Parliament under Article 84 (c) if a person does not comply with requirements of such legal provisions even in exercise of powers under Article 84 (c). He cannot be properly claimed to be duly nominated. He, therefore, would not be a candidate for election. In the circumstances, the election petition, if found not complying with the provisions made by the Parliament pursuant to the powers under Article 84 (c) of the Constitution can be summarily dismissed. In other words, it can be dismissed 'in-limine' without notice and admission. This view is also very much reinforced by the constitution bench of five Judges of the Honourable Supreme Court in *Charan Lal vs. F.A. Ahmad*, AIR 1975 S.C. 1988. The Honourable apex court was required to interpret similar provisions incorporated under the Presidential and Vice-Presidential Elections Act, 1952. It was, clearly, held that a person qualified under

the provisions of the Constitution but not complying with requirements of the Act cannot be said to be a candidate. The principles laid down and the ratio propounded in Charan Lal's case are able Apex court while following the ratio laid subsequent decision in the case of Charan Lal vs. Giani Zail Singh, AIR 1984 S.C. 309.... The constitution Bench of five Judges of the Honourable Apex court while following the ratios laid down in earlier Charan Lal's case, has also held that the petitioner had no locus standi to file the election petition as he could not be said to be a candidate for non-compliance of mandatory provisions of the Presidential and Vice Presidential Elections Act.

Mr. Ranjit Singh vs. Pritam Singh, AIR 1966 S.C. 1626, the constitution Bench of five Judges of the Honourable apex court has also held, interpreting the scheme of Election Rules and the pro-

visions of Sections 36 (4) and 33 (5) of the R.P. Act, that even production of incomplete copy of electoral roll is defect of substantial Character.

In view of the aforesaid facts and circumstances and the catalogue of events enumerated hereinbefore, in the background of relevant constitutional and statutory provisions as also the provisions of relevant rules, this court is satisfied that the present election petition filed by the petitioner against election of returned candidate, respondent No. 2 Dr. Alagh (now Union Minister) and seeking declaration that the petitioner should be declared elected in place of the returned candidate, is totally meritless and is required to be rejected in limine at the threshold. Accordingly, this petition is rejected at the admission stage.

[No. 82|SC-GJ|6|(96)|98]

By Order,
K. R. PRASAD, Secy.